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E.O. 12958: N/A
TAGS: [KTIA](#) [PARM](#) [PREL](#) [CWC](#) [OPCW](#) [CBW](#) [CA](#)
SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): FINALIZED
HOST COUNTRY AGREEMENT WITH CANADA ON CHALLENGE INSPECTIONS

¶1. Action Request in Paragraph 7.

OBJECTIVES

¶2. Department requests Embassy to pursue the following objective:

-- Deliver to the Government of Canada the finalized copy of a Host Country Agreement (HCA) on the conduct of Chemical Weapons Convention (CWC) challenge inspections.

REPORTING DEADLINE

¶3. Embassy should report delivery of finalized copy to Canadian officials by cable to ISN/CB Eugene Klimson NLT August 14, 2009.

POINT OF CONTACT

¶4. Please contact ISN/CB Eugene Klimson at (202) 647-5165 or via email for any further background needed to meet our objective.

BACKGROUND

¶5. The United States and Canada have finalized the negotiation of a Host Country Agreement (HCA) on the conduct of Chemical Weapons Convention (CWC) challenge inspections.

¶6. The U.S. National Authority has signed the letter acknowledging the final text and will forward the final signed copy by mail to the Canadian National Authority. As a courtesy, the United States reprinted the final text at the end of the cable.

ACTION REQUEST

¶7. Drawing on the background and talking points, Embassy Ottawa is requested to deliver the text of the talking points in Paragraph 8 and the letter (with the HCA) in paragraph 9 to the appropriate Canadian officials and report to Washington when the letter has been delivered.

TALKING POINTS

¶8. Talking points for delivery:

- The United States Government is very pleased that our Governments have been able to complete our negotiations on a Chemical Weapons Convention (CWC) Host Country Agreement.
- The United States is pleased to inform you that we can accept the final changes and we are ready to exchange diplomatic letters.
- We believe that this agreement is a great achievement that strengthens the commitment of our Governments to the CWC and nonproliferation of chemical weapons.
- The Host Country Agreement will contribute to ensuring that logistics and communications will be conducted in a manner that supports the implementation of a challenge inspection.
- We appreciate Canada's constructive approach, efforts, and cooperation during the negotiations.
- We look forward to continuing our cooperation with Canada on the CWC and chemical weapon non-proliferation matters.
- We are very pleased to bring this matter to a successful conclusion.

End of Talking Points.

TEXT OF LETTER

19. Beginning of text for Delivery to Canadian Officials:

Mr. James A. Junke
Director
Non-Proliferation and Disarmament (Chemical, Biological,
Conventional and Remote Sensing) Division
Foreign Affairs and International Trade Canada
125 Sussex Drive
Ottawa, Canada K1A 0G2

Dear Mr. Junke

I have the honor to refer to the discussions between the United States and Canada concerning challenge inspections under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC).

The United States proposes that a set of arrangements and principles for the conduct of challenge inspections under the Convention apply to the conduct of any challenge inspection in the territory of one Participant in which the assets of the other Participant may be within, or in the vicinity of, the inspection site.

Nothing in these principles should be interpreted as altering in any way any agreements in force between the United States and Canada. These principles should be interpreted in a manner that is consistent with the Convention and any agreements entered into between either Participant and the Organization for the Prohibition of Chemical Weapons (OPCW).

In the event there is a conflict between the provisions of the Convention or any agreement between either Participant and the OPCW and this arrangement, the provisions of the Convention or such agreement with the OPCW should take precedence.

In this regard, the United States understands that the Canadian National Authority has informed the Director-General of the OPCW that, in accordance with Canadian domestic legislation, Canada will be the sole inspected State Party for any challenge inspection on its territory except for cases in which a sovereign vessel or aircraft of another country is the subject of the inspection. Canada understands

that the United States does not have domestic legislation similar to Canada's that would require that the United States be the sole inspected State Party for any challenge inspection on its territory.

The arrangements and principles may be amended in writing by the United States and Canada.

If the principles and arrangements set out in the Annex below are acceptable to the Government of Canada, I have the honor to suggest that this letter and your reply to that effect will place on record the understanding of the United States and Canada in this matter that will come into effect on the date of your reply and will remain in effect until 90 days after the receipt of notice of termination by either Canada or the United States.

Yours sincerely,

Robert Mikulak
United States Department of State
Bureau of International Security and Nonproliferation
U.S. National Authority for the Chemical Weapons Convention
Washington, D.C. 20520

Annex

EXCHANGE OF LETTERS BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND CANADA ON PROCEDURES GOVERNING THE CONDUCT OF CHALLENGE INSPECTIONS UNDER THE CHEMICAL WEAPONS CONVENTION (CWC)

For the purpose of these principles and arrangements, &Host State Party⁸, denotes the State on whose territory lie facilities or areas of another State Party to this Convention, that are subject to inspection under the CWC. The &non-Host Party⁸ is the State on whose territory a challenge inspection is not taking place but that may have an asset potentially affected by a challenge inspection. &Inspected State Party⁸ is used in accordance with the Verification Annex, Part I.12. The &other Participant⁸ denotes the Participant that is not the inspected State Party.

The United States and Canada affirm the importance of the effective implementation of the CWC and intend to work closely and cooperatively together in order to fulfill their obligations concerning the conduct of a challenge inspection under the Convention.

The United States and Canada affirm that nothing in this Annex should be interpreted as altering in any way any agreements in force or understandings in effect between the United States and Canada or in a manner that is inconsistent with the Convention, or any agreements entered into between either Participant and the OPCW.

1I. In the event that a challenge inspection takes place on the territory of the United States or Canada, and that inspection may affect the assets of the non-Host Party, the United States and Canada each intend to:

1A. Coordinate to ensure that their sovereign rights can be exercised and national interests protected in meeting their obligations under the Convention.

1B. Make every effort to provide, within two hours of receipt of a notification of a challenge inspection on its territory or in any other place under its jurisdiction from the Organization for the Prohibition of Chemical Weapons (OPCW), copies of the Inspection Notification and the identity of the Requesting State Observer to the other Participant. In addition, the Inspected State Party intends to provide a copy of the Inspection Mandate to the other Participant when received from the inspectors. The points of contact for notifications to the United States are the United States Nuclear Risk Reduction Center (telephone 01-202-647-9166, fax 01-202-647-4892) and the U.S. Northern Command Joint Operations Center (01-719-554-2361, fax 01-719-554-2368).

The point of contact for notification for Canada is the Canadian National Authority (1-613-944-0473, fax 1-613-944-3105 or 24 hours at DFAIT Operations Centre 24/7 telephone: 1-613-996-8885).

1C. Exercise full sovereign rights with regard to its government sovereign vessels and aircraft. When government sovereign vessels and aircraft are the sole object of an inspection, the Participant owning or operating such assets should be the Inspected State Party. If the Host State Party, not owning these assets, is designated the Inspected State Party, the Host State Party should advise the OPCW that the government vessel or aircraft is solely under the jurisdiction and control of the non-Host State Party and that, therefore, the non-Host State Party is properly the Inspected State Party.

1D. Provide each other, as soon as possible after receipt of initial notification, any relevant information about the inspection as such information becomes available.

1E. Upon receipt of the list of inspectors and inspection assistants, consult with each other if any individuals on the list raise concerns, and on the access that should be accorded that individual.

1F. Consult with each other regarding whether to accept an observer designated by the Requesting State Party whenever assets from both Participants may be within the inspectable area, and on the degree of access that the requesting State Party observer should be accorded.

1G. Consult with each other concerning the handling of media relations before, during, and after a challenge inspection.

1H. Reach agreement on the release of any information provided pursuant to these principles and arrangements to any third party.

1I. Exchange the names of approved inspectors on an annual basis.

II. The Host State Party intends to:

1A. Expedite the entry of the liaison officers, and their equipment and material (possibly including a mobile laboratory) from the non-host State Party into its territory, which may include, but is not limited to, the provision of aircraft and diplomatic clearance, and assistance with customs.

1B. Manage the conduct of the inspection when taking place on its territory, to take into account the need of personnel from the non-host State Party to travel from the territory of the non-host State Party to the inspection site in order to assist the host State Party in the expeditious conduct of the inspection.

III. The Inspected State Party should:

1A. Allow the other Participant to send representatives to observe and advise the Inspected State Party on any matters pertaining to the national security interest of the other Participant at all stages of the challenge inspection, including, but not necessarily limited to: point of entry procedures; perimeter negotiations; inspection of OPCW approved equipment; pre-inspection briefing; conduct of inspection and, sampling and analysis and at all levels (including sub-team activities).

1B. Not provide access to any area, building, or facility used by the other Participant without prior consultation with the designated representative of the other Participant.

1C. Not provide access to any citizen, equipment or vehicle owned by the other Participant without prior consultation with the designated representative of the other Participant and an opportunity to prepare its asset.

¶D. Coordinate with the other Participant on the provision of access or information to be given to the inspection team concerning an asset of the other Participant.

¶E. Provide the other Participant, on a cost-recovery basis, any administrative support required or requested, including transportation, accommodation, lodgings, meals, communications, and any necessary protective clothing or equipment.

¶F. Ensure that the other Participant, if deemed necessary, has up to 108 hours from the inspection team's arrival at the point of entry before providing the inspection team access to its assets inside the perimeter.

¶G. Provide the other Participant a copy of the Preliminary Inspection Report and Draft Final Inspection Report as soon as such findings are provided to the Inspected State Party by the Inspection Team.

¶H. Provide the other Participant an opportunity to offer comments within 24 hours on the Preliminary Inspection Report hours and similarly offer comments within 48 hours on the Draft Final Inspection Reports with respect to any parts thereof pertaining to the national security interests of the other Participant.

¶I. Consult with the other Participant on any request for the extension of the period of inspection.

¶J. Provide to the other Participant, without delay, all information resulting from the inspection pertaining to the national security interests of the other Participant.

End of text for delivery to Canadian officials.
CLINTON